

**REGULAR SESSION OF THE
BRIGHAM CITY COUNCIL
OCTOBER 21, 2010**

PRESENT:	Dennis Fife	Mayor
	Bruce Christensen	Councilmember
	Scott Ericson	Councilmember
	Ruth Jensen	Councilmember
	Bob Marabella	Councilmember
	Tyler Vincent	Councilmember
ALSO PRESENT:	Mary Kate Christensen	City Recorder
	Blake Fønnesbeck	Public Works Director
	Nancy Jo Green	Senior Center Director
	Paul Larsen	Economic Development Director
	Bruce Leonard	City Administrator
	Jason Roberts	Finance Director
	Paul Tittensor	Chief of Police

Mayor Fife called the meeting to order. The Reverence Period was given by Bishop Doug Nelson of the Brigham City 16th Ward. The scouts in the audience led the Pledge of Allegiance. A motion to approve the minutes of September 30, 2010 Council meeting and October 7, 2010 Work Session was made by Councilmember Christensen. The motion was seconded and carried.

PUBLIC COMMENT

CONSENT

Request Approval to Use Senior Center Trust Fund to Replace Two Computers at the Senior Center
Amendment to the Brigham City Bicycling Committee
Reappointment to the Advisory Council on Aging
Appointments to the Audit Committee

PUBLIC HEARING

Consider Adoption of UIA Communications Service Contract and Pledge of Franchise Tax Revenues

SCHEDULED DELEGATION

Proclamation Declaring Purple Pinky Week

NEW BUSINESS

Approval of Ordinance Repealing and Replacing Chapter 2.19, and Establishing the Brigham City Heritage and Arts Board

PUBLIC COMMENT

Paul Roberts - Mr. Roberts said they walk their dog in Pioneer Park. Mr. Roberts is a Fish Biologist so he watched what is happening in Pioneer Pond. He has talked with Mr. Pugsley so he is fully aware of its eutrophication and filling up with murgent and the algae growth, to the point that even the aerator fountain may not help the fish survive the winter. Eventually, there is going to have to be funds budgeted for a vacuum process to drain it to bare gravel at the bottom, and maybe even need more bentonite to retain the water. There is always water in the pond, but it needs to be maintained at a higher level with bentonite. If it is not cleaned, the materials die in the winter, absorb oxygen and come back in the spring as floating brown stuff, then returning the fertility back to the bottom, starting a new growth of algae. Until it is cleaned out, it is going to be difficult to keep all the fish, especially the last few plants of trout the Fish & Game put in. He understood if the City cannot afford it this year, but it is going to have to be budgeted every few years.

Kent Beecher - Mr. Beecher said he has a growing concern with his service from UTOPIA. He has worked continually with the lead technician from Connected Lyfe and UTOPIA. He hopes it is getting better, but a lot of citizens are locked into a contractual arrangement with some kind of service provider and are not getting the service promised. He asked the Council what the plans are to alleviate these problems.

Another issue Mr. Beecher was concerned with was the railroad crossing on Forest Street. This has been in discussions for a long time. The City made an effort to grant the railroad more property to the north for their switching operations and gave up the 300 North crossing. This did nothing. They did not move the switches, and the proximity of the switches to the Forest Street crossing changed things. He understood that the railroad

has a right-of-way, but it is 150 years old and times have changed. He felt it was time, as a community, to figure a way to get some relief. The City spent a lot of money to improve Forest Street as a gateway to the City and everyone is at the mercy of Union Pacific.

Mayor Fife stated that the issue with Pioneer Park has been turned over to City staff and they have been looking into it. They are going to meet with the Pineview Reservoir Board to see what kind of treatments they are putting into the water that might be contributing to the dead fish.

The Mayor asked Mr. Larsen to comment on the railroad crossing. Mr. Larsen stated that the City has been aware of the railroad situation for some time and has been trying to work with them on this issue. He felt that there are two potential solutions. One is an overpass and the other is relocation of the switching operation. The City submitted a grant request to the Department of Transportation for a study to analyze which would be the most efficient and cost effective. However, he received notice today that the City was not awarded the grant. It is a long term problem and the City is working as hard as possible to resolve it. The Mayor added that the City has been monitoring the times and delays, and has been giving the railroad a report monthly.

CONSENT

Request Approval to Use Senior Center Trust Fund to Replace Two Computers at the Senior Center

It was requested the Senior Center be authorized to use funds from the Senior Center Trust to replace two computers. The quoted price for the computers is \$2,400.

Amendment to the Brigham City Bicycling Committee

This ordinance amending the Bicycling Committee adds terms for committee members.

Reappointment to the Advisory Council on Aging

It was recommended Margaret Pounder serve another two-year term on the Advisory Council on Aging.

Appointments to the Audit Committee

It was recommended Councilmember Marabella and Councilmember Jensen be appointed to the Brigham City Audit Committee.

MOTION: A motion to approve the Consent Agenda was made by Councilmember Christensen, seconded by Councilmember Jensen and unanimously carried.

SCHEDULED DELEGATION

Proclamation Declaring Purple Pinky Week

Mr. Jim Moore, President of the Local Rotary Club, and Chandra Muhlestein, President of the Box Elder Interact Club, came forward. The Rotary has taken on the initiative to rid the world of Polio. They began this in 1985 and they have been very successful. There are only four countries in the world that still have incidents of Polio. They are making a final push to get rid of it. As part of that, they asked that November 15-20 be designated as Purple Pinky Week. They are going to have a fund raiser to support the Polio eradication effort. He explained that when children are vaccinated in third world countries, there are so many of them that they cannot keep track of who has received the vaccination and who needs it. To deal with this, they paint their little finger (pinky) purple when they have received the vaccine. The high school is going to have a fund-raiser. Students that donate \$1.00 will get their fingers painted. This \$1.00 will pay for two vaccinations.

The Mayor read and signed the proclamation declaring November 15-20, 2010 as Global Polio Eradication Week.

NEW BUSINESS

Approval of Ordinance Repealing and Replacing Chapter 2.19, and Establishing the Brigham City Heritage and Arts Board

Ms. Janeal Rogers and Mr. Larsen came to the table. Ms. Rogers reported that the Heritage and Cultural Arts Board has been discussing these changes for the last year. They feel the original intent of the ordinance is no longer valid. Everything that stemmed from the original ordinance has branched out. For example, the Academy Square Foundation started with their Board, as well as the Heritage Arts Festival Committee. The Board would rather do programming than policy, so they completely revised the ordinance and changed the name to eliminate some confusion.

Some of the major changes is that it changes the number of members to nine, so they will more readily have a quorum. It also clarifies the ex-officio issue as to who votes and who does not. It also redefines staff support and gives them more leeway to have a more program-based board so they can do more tours, similar to the cemetery tour. They are looking at doing a historical home tour in the spring.

The bylaws were also amended to change the meeting requirements to at least once a quarter, and to conduct meetings according to Robert's Rules of Order at the discretion of the Chairperson.

MOTION: Councilmember Ericson made a motion to approve the ordinance repealing and replacing Chapter 2.19 establishing the Heritage and Arts Board and bylaws. The motion was seconded by Councilmember Jensen and unanimously carried.

PUBLIC HEARING

Consider Adoption of Utah Infrastructure Agency (UIA) Communications Service Contract and Pledge of Franchise Tax Revenues

Mr. Leonard came forward and explained this service contract states that the City will receive certain connections from the UIA and the City will be obligated to pay certain service fees for those connections. To secure the City's obligation under the contract, the City will pledge and lend its franchise tax revenues received from energy suppliers, such as Questar, for a maximum period of 20 years. This tax is collected by the State of Utah and remitted to the City similar to the sales taxes the City receives. This tax is not or will not be a surcharge placed on citizens' utility bills. Initially the City's pledge was determined by UIA to be 3.34% of the total bond amount. However, through several months of negotiations, the City was able to reduce that to .6% of the bonding costs. This is a substantial savings to the City and to the residents. This is a pledge, and is considered a loan to backstop the bonds that the UIA is proposing to issue.

With the communication contract the Council received, there was a resolution that will need to be passed to authorize the Mayor to sign the contract. Mr. Leonard met with the City Attorney and Mayor Fife and there have been some amendments to the resolution presented to the Council. One of the changes is that the resolution be contingent upon certain clarifications from the UIA regarding two sections in the contract, and that it be contingent upon the UIA service fees and service contract, and that the service contract include only the actual connection costs since the formation of the UIA and not include previous costs from UTOPIA or from the City Special Assessment Area (SAA). He explained that there was a commitment made by UTOPIA that a portion of the funding for future connections in Brigham City would be remitted back to the City to cover the costs for supporting the gap and for extension to City facilities. Mr. Leonard said there is a significant chance that the UIA Board will not accept these changes.

Councilmember Christensen added that the City is pledging only collateral for the bond at this point. The only time the City would pay is if the bond went into default and UIA was unable to pay it. If that happened, the City would be called upon for .6% of the bond. The City is not giving any of the franchise tax to anyone and does not anticipate doing that.

Mr. Leonard added that the City charges a 2.5% franchise fee from the energy utilities. State law allows cities to charge up to 6%. Councilmember Jensen stated that last year when Mayor Christensen asked the Council to raise the franchise tax to 6%, the Council decided not to do that because many citizens are having difficult

financial times. In a recent work session, the Council mentioned that this tax could be increased. This is a tax for utilities, but the citizens still pay for it as customers of the utilities. Councilmember Marabella clarified that he never discussed the option of raising the MET. He is not in favor of it and he will not support it. When Mayor Christensen wanted to raise it to 6% with the idea that it would be an increase in revenue for the City, the Council adamantly did not support it. Mayor Fife said he recalled that staff was showing that Brigham City was favorable when compared to other cities that had increased it to 6%. There was no intent to increase it. Councilmember Jensen stated that the Council said it was a possibility. Councilmember Marabella said the Council could raise it any time to 6%, but it has nothing to do with UTOPIA. It is a way of taxing the citizens without them knowing. Councilmember Ericson said there is a difference between the state allowing cities to charge 6% and the Council having any intent to do that. He understood from the work session that no one has any intention of increasing it to 6%, even though the state allows it and most cities are at 6%.

Mr. Leonard explained that historically the franchise taxes that are imposed by Qwest were collected by cities to allow them into the community. The utility companies felt that some cities were charging too much on these taxes. They lobbied the legislature to impose the municipal energy tax (MET). This corrected what the cities could charge for franchise taxes. Cities were charging utility companies to use their streets and public right-of-ways. Councilmember Jensen said this is appropriate if they are using infrastructure that a public company will not come to. When there are public companies making things available to their customers, then it is not an appropriate tax.

The Mayor stated that if UIA accepts this amended resolution and UTOPIA is successful, Brigham City will get back much more than what is pledged. The City would get back \$920,000 in connection fees and are pledging a total principle over 20 years of \$369,000. The City would also get back a portion of each citizen that signs up. It could be as much as \$232,000 a year. This would offset some of the sales tax pledges. There is a big up side to this if they are successful in some of the other cities. The idea behind UTOPIA is that all cities are together to do the build out instead of individually like Brigham City did.

A motion to open the public hearing was made by Councilmember Ericson, seconded by Councilmember Vincent and carried.

Kris Powers - Ms. Powers said she realizes that the community has already put in more money than any other City, but we also have the service, is using it, and are generating revenue by usage of this infrastructure which the other cities are not. She applauded the Mayor, the elected officials and employees that worked with UIA who gathered the correct information and are trying to make the best of a situation that no one is really that happy about. UTOPIA was completely voluntary to every person or household in this community. It was on a volunteer basis for people to sign and use. So far the only citizens that have had to pay into it are those that have volunteered to pay into it. If we give that up now, the rights for this utility will also be given up and all citizens will have to pay for it. She does not want those who did not choose to have the service to pay for it. If the City does not go forward, the City will have a \$400,000 annual debt for the next 28 years with absolutely nothing to show for it. Those that signed up for UTOPIA would still have to continue to pay their obligation as well. This affects at least 1,600 households. How is the City going to pay for this if there is no income coming in and the service is no longer available? There are approximately 5,000 households in Brigham City. If this is divided by the annual bond of \$400,000, it would be approximately \$800/year for the next 28 years to pay for the obligation. Is this really what the citizens want for every household in Brigham City? That is not what is in the best interests of the community. If the City goes forward with this, it would allow more connections to be added onto the network, generate more revenue and be able to keep using the infrastructure. A road is not closed just because the City cannot afford it. In her insurance business, this equates to purchasing a \$9,000 per year insurance policy for the City so they do not have to pay \$400,000 per year out of the budget to pay for UTOPIA. She urged the Council to vote yes and adopt this service contract with UIA. She added that she still believes UTOPIA was the right choice for the City. If they build it, they will come. This may take time, as everything else good usually does, but it will be one of the greatest benefits we can offer our citizens, our businesses and the future and welfare of our children and everyone else in Brigham City.

Matt Meyers - Mr. Meyers said he attended the meeting because he was lead to believe the Council was going to raise taxes. His neighbor just lost his job and now he has to find a way to help him. He was not sure how UTOPIA is going to work, but if the City raises taxes he can't help him. He was concerned about that. He has been looking for a job, but he's worried. The County is in a bit of a depression with all the layoffs. He is

extremely nervous that he is going to watch taxes go higher and watch his neighbor's house go into foreclosure because he cannot help him. He wants the best for the City, but he wants to be able to help him as well.

Paul Roberts - Mr. Roberts said he is a supporter of UTOPIA and urged the Council to approve this pledge of collateral to not only benefit Brigham City, but also show the world that UTOPIA can work in Utah and around the world. Comcast has re-branded itself as Xfinity. Qwest is providing services they cannot pay for. They will wait a year and then they will increase their prices. Comcast is taking over NBC so they have vertical integration under one control from the production of information down to who gets it and how it is distributed to people. This is corporate communism and Qwest is not much better. If a person talks to their general officers, if they can find any that are not in jail, they can't do it. But he can go to Main Street in Brigham City and talk to the people of brighamnet and discuss his situation. Open infrastructure is a great idea. Comcast and Qwest and their other suppliers that use their cable and phone lines are trembling, and may even be resorting to sabotage to squash UTOPIA because it is hurting them. Brigham City should rally around UTOPIA and help build it out so UTOPIA can undercut these corporate monoliths that are trying to control us.

Ron Germer - Mr. Germer said he has been interested in UTOPIA for a long time. The whole thing has changed many times. Now the City is embarking on a new thing called UIA which is a financial arm of UTOPIA because they cannot get any more money. He said the City needs to decide when to fish and when to cut bait. We have to quit kidding ourselves. UTOPIA has three products, TV, phone and internet service. He does not disagree with the internet service. He thinks it is good and better than what he had. But UTOPIA has taken a voice over to provide TV and phone and it is a substandard product. He has used their phone. He has tried to receive messages on it and it doesn't work all the time. It might get better, but if he calls someone on his Qwest phone he knows it is going to work. He did not think the phone service is going to get better. The TV is an inferior product. Direct TV, Dish and Comcast are better products. This will put the City in debt for 30 years. Does it make sense? Somebody said we're going to get this money back if it all goes perfect, but things do not go perfect all the time. Why is the Council trying to figure out a way to spend more money? It does not make good sense. He did not understand why the City is spending more money on this. It does not make good sense. People that want the high-speed, ultra fast internet are getting it on the backs of the rest of the citizens that are buying inferior TV and phone.

Michael Dunn - Mr. Dunn said when he was in the Air Force he had a great experience with high speed internet and fiber optics. When he was over the Commander of the largest military community overseas in Germany, there were over 120,000 with the service. The high speed internet they brought in did exactly what they wanted it to. His next assignment was Chief of Staff of Pacific Headquarters. In that realm they had to keep connectivity with the entire Pacific rim and had the ability to again use a high-speed internet. He said he understands how high-speed internet works; he has been on the ground floor watching as it was developed. He has also lived in the Netherlands when cable TV was brought in and was first introduced. They had a \$2,000 connection fee. He has had a chance to watch how things grow and develop in three different locales. Since he has lived in Brigham City, he decided not to participate in UTOPIA because his experience with anything by the name of UTOPIA is as soon as someone says that name, the first thing people do is get out their wallet and run out the door, because UTOPIA does not exist. It is a myth. UTOPIA started as a thing. Then the citizens heard that it has to expand another ten years for more promissary notes to obligate the community. It is not raising taxes, although the City raises fees consistently. Electric fees have been increased, of which 30-35% go into the General Fund. Fees for sewer and garbage collection are raised on a consistent basis, but no, the City does not raise taxes. He does not know the difference between the two because it all comes out of his pocket. Now there is talk that it is not really going to be a tax because it will be Questar that will pay for it, but he is obligated, even if he does not have anything to do with it. He is being obligated by the City Council for things he does not want to participate in. The City can call it a fee, they may call it a tax, but if it goes into the General Fund it is a tax. He is close to being on a fixed income and he was concerned that there should be no taxes and no increases, no going from UTOPIA to UIA and making a continual obligation of taxpayer funds in order to front something because in the end, the taxpayer is going to have to pay it.

Gerald Thompson - Mr. Thompson stated that he would like the City Council to publish the worst case scenario for the taxpayer.

Sherry Phipps - City Recorder Mary Kate Christensen read a written letter from Ms. Phipps. "Since I am unable to be at the City Council meeting this evening, I am writing in regards to the surcharge that is being considered on our utility bill for UIA and UTOPIA. I am opposed to this. My husband and I signed up for UTOPIA with the hope that it would stop the tax on everyone. There are people in this City on fixed incomes and many are now on unemployment. It was a mistake for the City to commit to UTOPIA in the first place. A private business would find better ways to run it. I understand that the current administration did not bring UTOPIA here. Still, it is in their hands to stop the bleeding. UTOPIA needs to be told they have been given everything and more than the City initially committed to. Please vote no."

Bliss Law - Mr. Law stated that the article in the paper raised a lot of questions he would like answered. As he remembered, when UTOPIA was originally approved by the City Council, there was not any public vote for the financing of it. It was a City Council decision. He knows a few people that have signed up for it, but are not having it hooked up to their home because they either cannot afford it or have observed it elsewhere and found out it is not what was promised. The people that originally signed up for it are now trying to figure out how to get out from under the obligation they have. Since UTOPIA, as originally presented to the City and to the people, has essentially failed and they have run out of financing, now they are going under another name. They have had some government money removed from what they originally planned. This raises a lot of questions. What is the UIA if it is not for infrastructure? What is it other than for UTOPIA? It was mentioned that the City has current pledges. What other pledges does the City or UIA have to support this other than UTOPIA? Why not call a cat a cat and a dog a dog? It is still UTOPIA. The article in the paper said UIA is needed to pay the bills. What bills are there other than UTOPIA? The article also said any surplus would go to UTOPIA. It does not sound like there is any surplus to begin with. He felt it is a way to bond from what the original City Council decided, but the citizens did not. This should go on a referendum and be voted on by the people. It is a significant impact to the people of Brigham City. Why is Brigham City so insistent on supporting a failed project someone sold to them? He felt that if this was voted on by a majority of Brigham City, it would be voted down. The City Council should represent the citizens of Brigham City, not represent UTOPIA. It is obviously not wanted by the majority of Brigham City or there would not have been so few people sign up for it and it would be paying its way. In effect, the people have voted by not signing up for it. The City Council is representing the financial interest of UTOPIA, not the Brigham City people.

Wilbur Fowler - Mr. Fowler said he always considered this Council men of integrity. But he really questioned the decision to even go into UTOPIA. Why didn't someone have enough sense to ask how much it was going to cost up front? Nobody did. UTOPIA said we need this much money, five years later they come back, haven't produced anything and ask for more. He heard the man from UTOPIA at City Council say if the City got out now, they would lose everything that has been put into. They took everyone's money and finished Tremonton. The Council voted to give them more money. If he told the Council to give him a pile of money and he would build them a house and five years later the house is not done, would their spouse be upset? If the builder said he used his money to build another house, would the Council give him more money? Three years later UTOPIA still does not function. There are even members of the Council keeping their own service because they could not depend on UTOPIA. The City might have been better off to bite the bullet and get out. He asked the Council to find out how much it is going to cost to finish the system before putting more money into it. He said he has a neighbor that has UTOPIA but he cannot find any service he likes so he is still paying another service. A survey would have been great. On his street there are 13 families, but there are only five homeowners. Does the Council think someone who is renting is going to take this service? The Council should know how many renters there are in Brigham City because they are not going to pay \$3,000 to be hooked up to UTOPIA. Most of them are single parent families making barely enough to pay the rent. He is tired of half truths. From the very beginning it was said if the City does not get UTOPIA the City is going to die. There are businesses in Brigham City that have had fiber optics for ten years and they are still operating with Qwest. There is a phone service in the basement of the Christensen building and they are on fiber optics. It costs that business \$6,000. That included the cost from the Qwest building to their building. A business uptown wanted to sign up with UTOPIA and was told it would cost \$12,000. He said he gets tired of half truths. When the Council agreed to the second bond, he commented during the public hearing that the City should not do a bond for that many years. Electronics change too fast. In the last ten years fax machines came, now they are going out. Internet is going to be free over the air. Half the people in the United States do not have home phones.

Steve Hansen - Mr. Hansen said he had a dial up service. He has written two letters to the editor in rebuttal of a Qwest employee who attacked UTOPIA. Then he could not get his email any more. His 56K modem became a 14K modem. He has no way of knowing how that happened. He abandoned his dial up and got a little Cricket that was \$42/month that was advertised as up to 1.5 mg/second. But it is not much better than dial up. It spikes for a second, then falls back down way below. It was not what it was advertised. He tried to watch a video on a little tiny window and it took 1.5 hours to watch a 45 minute program. Wireless is greatly exaggerated. The wireless spectrum is filling up rapidly. AT&T no longer sells phones in New York City because their system is so overwhelmed. He pays \$38 for his internet access with UTOPIA. Citizens do not have to sign up for telephone or TV with UTOPIA. He watches TV on his internet. It is the best quality in television he has ever seen. UTOPIA is light years ahead of Comcast and cable. Brigham City did the right thing when they signed up for UTOPIA. If there are problems with people's connections, it is not UTOPIA; it is the internet service provider they signed up with. There is a lot of misinformation about people that are not involved with UTOPIA, thinking they know more about it. UTOPIA is not a failure. UTOPIA is making money and the more and more people that connect to it, the more and more profitable they will become. It is that plain and simple.

Bonnie Germer - Ms. Germer said she is glad that some people are happy with UTOPIA, but she does not want to pay for them. She does not want to build a private company for someone out of her paycheck. UTOPIA is a private industry. It is not something the City can back out of it. The citizens are being forced to pay for something that somebody else dreamed up. UTOPIA, Todd Marriott, and everyone who is with UTOPIA are laughing all the way to the bank. She has seen him do it; she has heard him do it. She has heard everything that he has to say. She has people that have listened to what he has to say. He stood in Council meeting and told everyone what a wonderful, inexpensive item the City is going to have to buy, and it did not. They are \$126 million in debt. That was six months ago. Now they are tapped out and cannot borrow any more money. They formed UIA on the cities' backs to put another company in business. Nobody puts other companies in business, yet the City has been forced to fund UTOPIA and now UIA. The citizens cannot afford it. If a business can afford it, let them buy into the business of fiber optics. Why would 5,000 homes only have 1,600 sign up, and most of them want out because of the quality? This does not mean that UTOPIA is successful; it says it is not. Ms. Germer said the citizens have heard many times that the Council has had many meetings and no citizens show up. However, UTOPIA does not come to Brigham City to meet in front of the citizens. The citizens do not get to hear the negotiations and what is being said. They get to hear what was agreed on and a report second hand. But the citizens do not get informed, they just know what the Council has voted on and what the citizens get to pay after it is voted on. This is unfair to the citizens who have to buy this business, and it is not a business she wants to be in. It was forced on the citizens.

Les Taylor - Mr. Taylor stated that UTOPIA has been in business for eight years and has not turned a profit. They formed another arm, UIA, in order to get a second mortgage. It stated in the Deseret News that they do not expect to turn a profit for another 7-8 years. Banks won't lend them money, why should the City? He did not think the City should be spending citizens' money recklessly.

Ed Tugaw - Mr. Tugaw said he cannot tell whether the Council is going to charge him more money or not. He deals with people on a day-to-day basis that signed up for UTOPIA that say they were talked into and are not getting the money out of their house as they sell them because they have to pay off the lien for UTOPIA. Somebody needs to figure out the worse case scenario. He applauded those that spoke against it and respect the people that have signed up for it. If they want to pay for it, that is their business.

Jeremy Hunsaker - Mr. Hunsaker said he has been a supporter of UTOPIA from the beginning. He only has internet through UTOPIA and is very pleased with his service. He feels bad for those that are having trouble with their phones and urged the Council to see what can be done. He said he is discouraged with this new bond and wondered where the money from the two previous bonds are going. Whether the cost is coming out of citizens' pockets directly or if it is coming from other sources that are not directly from the citizens, it is still a cost. He said he still believes that Brigham City needs to reduce their contribution as much as possible because they already stepped forward as a City and now UTOPIA, and now UIA, needs to do pay their part back to the City. If there are other cities that are required to contribute and Brigham City needs to continue on, that's okay, but he urged the Council to fight for every penny that they ask for from Brigham City. The City has already fulfilled the commitment to UTOPIA. Forming another company seems to be another way to ask for another bond when it has already happened twice. The citizens are never going to understand that and

are not as involved as the Council. This is now the third time they are asking for yet another bond. He asked the Council to make sure every cent is accounted for and they are delivering on their promises.

There were no further comments from the public. A motion to close the public hearing was made by Councilmember Marabella, seconded by Councilmember Christensen and carried.

Mr. Roberts and Mr. Leonard came to the table. Mr. Roberts gave the worse case scenario, as requested. If the City would have had to pay a 3.34% pledge on the \$60 million bonding over the next five years, it would have been over \$2 million for Brigham City. However, because the City did a Special Assessment Area, the City told them this was not acceptable because the City had put in a lot more money than any other member City. By reducing this percentage to .6, the worse case scenario would be a little over \$369,000. This would be the principle amount payable on the bonds over the next 20 years. This is not per year, this is total. It would be approximately \$31,000 per year. The plan is to issue a \$25 million bond the first year of the bonds. Brigham City's payment on a .6% of that \$25 million would be approximately \$13,000 per year. With that \$25 million they are going to bring service to the nine cities that have signed up to be in the UIA. Their financial model plans to go to cities that would be the cheapest to connect, because some cities have more infrastructure than others. The model takes into consideration assumptions of take rates in areas and revenue per customer. The revenue would pay the bond payment.

Councilmember Jensen asked if the City has in writing that the City will pay .6%. Mr. Roberts said it is in Exhibit D of the service contract. Councilmember Jensen asked if they can ask for money through franchise fees, service dues or taxes. Mr. Roberts said they cannot.

Councilmember Jensen asked how the City came up with .6%, because the Mayor wanted .5%. Mr. Roberts explained that UIA took 3.34% of the operating expenses they are projecting over the next five years. They said approximately \$10 million would be used for operations over the next five years. 3.34% of that is \$369,194. That is approximately .6% of the \$62 million bonds. The bonds will be issued at \$25 million the first year. Thereafter, if they are getting revenues as predicted by their financial model, the UIA Board could vote whether to take out another bond for the next year to fund construction. The worse case scenario of the five years is if they issue all \$62 million of bonds, it would be \$369,194 of principle. If interest rates stay at 6% it would be an annual payment of approximately \$32,000 per year. Other cities are obligating much more than that. Centerville's payment would be \$186,000/year. They are similar in size to Brigham City. The largest City, West Valley, would have to pay over \$1.5 million a year. This is if UTOPIA does not meet their take rates and does not have the revenue coming in as projected. If this does not happen, construction is supposed to stop. Mayor Fife reiterated that the worse case scenario is if they do not meet their take rates and the revenue is not coming in as planned, they would have to draw the \$62 million bond and the City would be obligated for almost \$32,000/year for 20 years.

Mr. Roberts said the positive side of this is if the UIA has excess revenues, they would be distributed to the member cities. In their five-year plan, they have estimated 750-800 new connections in Brigham City. The financing for these connections would come out of the bonds. That would be approximately \$900,000 that would come to Brigham City for construction to homes. Mayor Fife stated that they have committed in the service agreement to pay for 774 connections from the curb to the home. Mr. Roberts explained that any user that signs up for a connection would have to pay what is considered an infrastructure fee of \$20-\$25/month. Brigham City has amended the agreement for UIA's approval to state that Brigham City would get 60% of that monthly fee. Mayor Fife added that if the City has 774 connections, that would amount to over \$200,000 a year. This would go toward reducing the amount citizens paid for new connections with the original construction. Or it could go toward reducing the sales tax pledges, or \$400,000/year. It is possible the City could get back more than the City's pledges.

If the City does not join UIA, Mr. Roberts explained that the City would not be eligible for any of the excess revenue as projected in the 5-year model. The City has negotiated the distribution percentage at 3.46%, whereas the City's risk on the bonds is .6%. If everything goes according to the model, the City would get distributions by the fifth year.

Councilmember Marabella explained that the City has an obligation of \$400,000 per year for the next 28 years. This comes to \$2,240 for each homeowner. If UTOPIA fails, the City is going to have to raise taxes and cut

services to find \$2,240 per household. Citizens elected him and previous councilmembers to represent them over the last 8-10 years. These representatives are the ones that made the decision to go with UTOPIA. Now the councilmembers can do nothing and hope that UTOPIA tries to move forward, but the reality is that they are out of money. If they fail, every homeowner will have to pay \$2,240. That is the worse case scenarios right now, if nothing changes. None of the councilmembers like this. They have met for 6.5 hours on this subject. The Mayor is trying to find a way to make this the best for the citizens he possibly can. The Council is faced with a decision for \$6.00/year per household additional risk. This is the risk to get \$60 million more and hopefully fix the situation UTOPIA is in. There are 1,600 people that signed up for UTOPIA voluntarily. UTOPIA has not cost the citizens of Brigham City any money, except for those that voluntarily signed up. The ultimate situation is \$32,000 a year additional risk, or \$6.00 per household. The decision the Council has is whether to spend \$6.00 more to save \$2,240, or cut losses and do no more. If it fails, the 1,600 citizens that have signed up for it will owe \$3,000 for nothing because there would be no UTOPIA. If that happens, they will stop paying the City. If they stop paying, the City still has to make the bond payment so every citizen will be responsible for that payment. The Council needs to try and make it work.

Councilmember Marabella continued that the Council held a work session on October 19 and not one citizen showed up. Ms. Bonnie Germer said the Council accuses the citizens of never showing up. She said she shows up at Council meetings all the time and he got upset with her because she is always here. Councilmember Marabella said he never got angry with her, they had a disagreement.

Councilmember Christensen said it is unfortunate that the City is in this situation. About 15 years ago, some citizens wanted broadband service of some kind. None of the providers would even consider it then or in the near future. If they would have, this situation would never be happening. Having been involved in economic development for many years, Councilmember Christensen said one of the first things businesses ask is whether the City has fiber optics. Nobody likes being in this position. However, decisions have to be made. He said he had the impression that the citizens in the audience thought the Council is going to raise taxes. This was never discussed among the Council, nor would he ever consider raising taxes for any reason. This has never been a discussion in regards to UTA. The Council is trying to determine whether to pledge some of the City's assets, which is an income asset, to use for a bond so UTA can bond and borrow money to finish the model to move forward and install member cities, such as West Valley and Orem, and more homes in Brigham City. They can get more take rates in these big cities, which will increase the income and take away the losses they have. The City is only pledging collateral, not raising taxes. There is nothing that will cost citizens that will result from any decision made at this meeting. The model has to be met in increments. They are only getting \$25 million out of the \$60 million to begin with. If they do not meet the model with the \$25 million, it is over. There has been a lot of negotiation to get the 3.36% down to .6%. Other cities are paying much more.

Councilmember Christensen stated that the comment about raising fees is not true. The Council has not raised fees for a long time. Electric rates have gone up, but that was a pass through. The City has covered the last two passthroughs. When Rocky Mountain Power and Western Power raises Brigham City's rates, the City has to pay that increase. The City can either pass it onto the citizens or cover them. The City has covered them the last 18 months. The Council is trying to do the best they can and find ways to cover these costs. The City's sales tax revenue is down and other income is also down.

Another citizen mentioned that there was not a public vote when the City bonded for the SAA. Councilmember Christensen explained that the 1,600 people voted by signing up for it. The citizens did not have to sign up for it and they did not have to pay for it. There was no need for a public vote.

Councilmember Ericson stated that one of the challenges is that Brigham City is joined with the other 16 cities involved. If Brigham City is successful and they are not, overall Brigham City will not be successful. It is not just Brigham City standing on its own. If Brigham City was on its own, based on the number of people that have signed up and the infrastructure in the ground, it would be profitable for a company to have fiber optics in Brigham City. Unfortunately, because Brigham City is joined with the other 16 cities who do not have as many homes connected, the whole system is losing money. The whole purpose of this, and the only way UTOPIA can be successful, is if the larger cities involved have enough take rates to cover expenses. If that does not happen, the City is going to have to pay the \$400,000 for the next 28 years. The only way it can be successful is if the larger cities and numbers get on the system. This is a last ditch effort to do that. He added

that none of the Council likes this. This is a tough decision either way. Whether the City walks away or votes for it, either way may not make all the problems go away. The only way for this to change is for more people to get on the system in each of the 16 cities, not just Brigham City.

Councilmember Vincent said he is very concerned with the decisions being made by UTOPIA. The Council is trying to make the best of a bad situation. If the Council votes against it, there will be 1,600 very upset citizens because they have signed up and paid for a UTOPIA connection. If the Council votes for it, everyone against it will be upset because somehow the City has to pay for it.

Councilmember Jensen said there are several variations to the story. She clarified that she never said the City is going to raise taxes. She said the City could get a charge. She said on page 6 of "The Review of UIA Five-Year Extension Plan" it talks about a maintenance cost. It reads, *"In the model a cost of \$1.20/month for every home passed is used to represent the expense of making the network. This figure accounts for both connected customers (with a fiber connection to the premise) and premises passed by fiber and/or duct but lacking an access drop cable to the premise (62,000 addresses). This figure has been calculated by dividing the annual actual cost of outside maintenance (\$881,000) by the 62,000 homes passed. This yields an annual cost of \$14.21 per premise passed, or a monthly cost of \$1.18. We believe this is accurate at this time."* Councilmember Jensen said she previously asked Mr. Roberts if this means that in some point in time the \$881,000 could be put on utility bills. He told her that under the right circumstances, it was a possibility. This is in the five-year plan, and if people want to say it is not going to happen, it is a line. UTOPIA told the City ten years the City would get connected for free and the bond money would never be called up. The City will begin paying \$30,000 per month in January 2011. This was never going to be called on. Now the City is considering another bond. Yes, it is only \$31,000, but it is the principle. They gave the City a product that is supposed to be 100% better and it is not. If the City is going to have to pay for it, they should get what was asked for. The City should not give them anything until they fix what they said they were going to.

The 5-year plan states, *"... take rates will drive all variables. The minimum build out take rate (25%) and the target take rate (35%) ... with the right kind of marketing."* If they are going to market in Brigham City, there is not going to be any take rate, because there are a lot of problems. Unless the problems are fixed, the take rate is not going to be that high. It will still be \$3,000 to connect, or \$22.50/month. How can they market a poor product? Most people are satisfied with the internet, but most people are upset and disappointed with the phone and TV. This needs to be fixed before the City throws more money into construction in order to market this successfully. There are key points inside the plan. It talks about the UIA models, the projections, cost attainments, etc. But no one can get to the answer of when the problems are going to be fixed. Meeting after meeting the Mayor has stated that he has called and told them what is wrong and they do not show up. There are several people that have disconnected their service but are still paying the \$22.50/month. This is unacceptable.

In the "Test of Build Out Assumptions for the Utah Infrastructure Agency," it states that senior management salaries are at \$125,000. Next year they are going up to \$1,050,000. After that, they are increasing \$10,000 each year. Customer service is at \$32,000, which is probably one person for everyone on their service. Next year they are going to increase this to \$45,000. Even though they are going to have more customers, there is only going to be one person to receive phone calls regarding problems with the service. This shows clearly what their intent is. This indicates where UIA's priorities are. Their financial statement shows three different retirement plans that UTOPIA contributes to for their staff. How many people have a job with three retirement plans? If the member cities need to pitch in and pay more, she could agree to that, but first prioritize and make sure the system is at 100% so it can be said that it is a good thing, and make sure UTOPIA is spending their money in the appropriate places.

Mayor Fife explained that the maintenance cost is not relevant. It is built into their model that UTOPIA will pay all the maintenance cost, Brigham City does not. This is built into what they get from the provider to maintain the network.

There were several comments that UTOPIA has not turned a profit. The Mayor stated that UTOPIA has never expected to turn a profit. They are expected to cover their costs only. Eventually, the \$22.50 will go away once the bond is paid for. The service providers are in the business to make a profit. They are the ones that get the

customer calls. He agreed that there have been a lot of problems. He has had problems with his phone. Connected Lyfe has changed their aggregate in how they handle the calls. When people first had cell phones, a lot of phone calls were dropped. Voice over IP is just at its maturity now and some of these providers were new in offering phone services. They have been working very hard to overcome the problems. There have been a lot of problems with this service. He has not heard any complaints about the internet. The TV has had some viewer problems. Costs from other providers that are not on fiber optics have been lowered drastically.

Mayor Fife said the City has worked very hard to get this down to a reasonable value so the benefits can outweigh the cost going forward. They have to get the service providers that can provide good service. That is the key to their success.

The City has saved over \$66,000 a year by switching the phone service with UTOPIA and there have not been any problems whatsoever. Businesses are receiving a lot of benefit and reduced cost for their phone services as well.

Mayor Fife continued that the Council weighs the citizens' comments heavily. Most of them at this meeting have been negative, but there are 1,600 people that do not want their service cut off. There are some still struggling and wondering whether to connect.

The Mayor explained that with any new subscribers, there will be a new model. There will be a telecommunications utility. The new subscribers would sign a 5-year contract, not a lien on their home, which makes it much more desirable. They would have the same financial commitment, but it would be an automatic renewal every five years. It would be a personal liability and tied to the utilities. The City will get a portion of every new connection fee to relieve the cost of those that have initially paid for this.

Regarding the comments about informing the public, Mayor Fife said he has found that it is very difficult to inform the public on every detail and every negotiation that has taken place. It is also very difficult to understand all the details of some of these things. The City has met with attorneys and even met with four different attorneys on the State Legislature, one of which wrote the Telecommunications Act, for over two years. They asked them about the legal implications on the UTOPIA and UIA contracts. They told them that everything appeared to be legal and the main decision is whether they will be successful. If the City thinks they are going to be successful, they should move forward. If they do not think they will be successful, then cut the losses. It might sound easy to just stop, but what are the consequences? The City cannot sell the network because they only own 60% of it; UTOPIA claims they own 40% because they put it in to start with.

The Mayor invited members of the audience to come forward and make further comments.

Mike Dunn - Mr. Dunn stated that Art Brothers, with Brothers Telecommunications, has fiber optics that services the western end of Tooele and Box Elder County. They provide telephone service, cable TV and everything else on fiber optics. He has toured Mr. Brothers's facility. He encouraged the Council to contact Mr. Brothers to see what services he can offer the City. He said private business is the way it should have gone in the first place. Shame on everyone who was involved in betting taxpayer money to support this thing. Councilmember Christensen asked if Brothers Communications provides fiber to the home or just a fiber ring. Mr. Dunn replied that it provides fiber to individual homes. He provides fiber where Qwest and others won't because it is too far out of the way. Councilmember Christensen said he understood it was a fiber ring and copper to the home.

Mayor Fife stated that the new subdivisions in Brigham City have contracted to put fiber to the home as they are building. This is another reduced cost.

Ron Germer - Mr. Germer said in another meeting he attended he remembered Mr. Todd Marriott from UTOPIA saying that this is the City's system. The City owns it. It sounds like this has changed. Mayor Fife explained that the comment was that UTOPIA is owned by member cities. All the cities own 40% of it and Brigham City owns 60% of it. Mr. Germer said there were comments earlier that if this fails, it is over. The fiber that is already installed is a viable, sellable asset that Brigham City owns a percentage of. If the City thinks it is a valuable, which Mr. Germer agreed it is, there are a number of private firms that would purchase it. If the City could cut losses to half of what it is now, a lot would agree it should be done. The City may not get

exactly what UTOPIA spent on the system, but another company would come in and purchase this infrastructure.

Paul Roberts - Mr. Roberts stated that he hopes the Council votes for this. He expressed concern that people think Comcast and Qwest are such great companies. They went to the money markets to get money to put in the fiber optics they had installed the week after the City Council voted to join UTOPIA. However, they will not bring it to the home because of their model. They have to control everything. From the asset on the telephone pole where they put it into the coax cable to the house, they have to control it. They can turn it off. They can restrict people's back access. They can totally manage people. Comcast wants to control it top to bottom, from NBC Television right to the telephone pole box. People need to realize that Comcast does not have a lot of money, they are just spending it like crazy. Qwest is being merged because they cannot afford themselves any more. The alternatives to UTOPIA are not in great health either.

Bonnie Germer - Ms. Germer came forward and apologized to the Council for being out of line. She apologized to Councilmember Marabella. She and him disagree sometime, but she apologized for being disrespectful.

Ed Tugaw - Mr. Tugaw said there are people at this meeting that have been in other industries. The majority have dealt with contracts of one kind or another. He asked if there is a contract with UTOPIA with some kind of escape clause that provides for a means of getting out of the contract if they do not provide what the member cities paid for. Councilmember Marabella said that makes sense, except Brigham City owns that company. Brigham City is UTOPIA. If it was an outside company, the City would sue them, but unfortunately the 14 cities own UTOPIA. Mr. Tugaw asked who the City owes the money to. Councilmember Marabella replied that the money is to pay the bond obligation to the bond holder. If the City defaults on the bond they will come back against the City and take what was pledged. They can legally come and take it from the City. Councilmember Christensen added that it is similar to collateral on a mortgage. A bank can foreclose and take a person's home. Mr. Tugaw asked what the total amount of the bond is. Mr. Roberts said the principle amount is approximately \$6.2 million. This is what the \$400,000 goes toward every year. Mayor Fife added that there is an escalation on it of 1.7%, so the last payments are close to \$700,000. Mayor Fife said UTOPIA was unable to pay the bond, so they had to go back to the member cities to pay their pledges. Member cities had an obligation to pay it. The amount the City is paying on the bond is still considered a loan, however, if UTOPIA does not have any money it is not a good loan.

Councilmember Jensen asked if UIA can come back and ask to bond again. Mr. Roberts said they could, but it would have to be approved by the Council. Councilmember Jensen said that is her big concern. If the Council starts at .6%, it is just a bait. It is only \$31,000. It does not even cover their customer service representative. This means that with this starting point, they will come back and say it is not enough. Councilmember Marabella agreed, but what he likes about it is they are only going to bond \$25 million of the \$62 million and then see where they are. Councilmember Jensen stated that in the key points from the 5-year plan it states, "The UIA model projects that it will take approximately 30 years to move project into the black." How hard is that to understand? "This is achievable given careful oversight and good management." That is what Design Nine says in the 5-year plan. Councilmember Marabella said "good management" means the representatives on the Board. Brigham City has good representatives on that Board. It is only as good as the City's representatives represent us. Councilmember Jensen said the City has a representation of 3.46% out of all the other cities. They will let us into the room and let us raise our breath, then they will vote over us. Councilmember Christensen said the .6% is part of 100% of the bond. They have 100% pledged, so they are not going to come back to anyone on what the Council is acting on. It is a done deal. Councilmember Jensen said they can bond again. Councilmember Christensen said they can come and ask. Councilmember Jensen said they have for 20 years, they have asked for an extension of 13 years on top of that, they have asked for \$3,000 a piece plus installation fee. Now they are asking for this. She asked the Council at the work session where the ceiling point is. They told her she is not willing to go as far as they are, and they thought it was good insurance. Then someone brought up the idea of people paying for insurance and some never collect on it, but if they do it is there. That is a good thing if the insurance company is not in the red. That is the worse case scenario.

Kris Powers - Ms. Powers said a lot of people have said that UTOPIA is not good because their services do not work. She clarified that UTOPIA is an infrastructure; that is all they are. What is not working are the service

providers using the infrastructure. That is not UTOPIA's fault. That is the service provider's fault and that is who customers need to go to if their service is not working. If AT&T is not working, whose fault is it? The service provider who is going through AT&T. She asked the Council if UTOPIA was sued by Qwest. The reason for the lawsuit was to stop UTOPIA from even occurring. She agreed with Mr. Germer that the City has an asset and could sell it, but they are sitting back and waiting for it to fail so they can buy it for pennies on the dollar. She is not willing to let what the City put into it be pennies on the dollar. Let's make it work so it will generate revenue.

Bliss Law - Mr. Law said the Council said there was a work session held, but that notice is very small on the back page and nobody notices it. The City Council and Mayor have an obvious dilemma about where the interest of the people is. The interest of the people is on UTOPIA and there was an article on the front page. Because of this article, there are a decent number of people in attendance at this meeting. If there is something that the City Council feels is of interest of the people, it should be on the front page. Not many people in Brigham City go through the legal notices. Councilmember Christensen said that it is up to the paper where they place the articles. Mayor Fife added that the meeting notices are always listed on the second page.

Councilmember Jensen said according to the City Recorder, the work session held on October 19 was not published in the paper. The meeting was called on Thursday, October 14 so there was not adequate time to publish it in Wednesday's paper. It was posted in three places, posted on the City website and put on the State's Public Notice website. It was also sent to the paper to notify the reporters that a meeting was being held. It met all legal requirements. Mayor Fife added that this work session was a continuation of another Council meeting and work session. It was held so the Council could be more informed and prepared to make a decision on this UIA agreement. It is difficult to have time to get the Council together to discuss these issues in the detail needed, so work sessions are needed to do that.

Mark Dibellow - Mr. Dibellow said he is a user of UTOPIA. He asked if this report is from an independent company. Mayor Fife replied that it is an independent company that was hired by UTOPIA. Councilmember Jensen said she asked Mr. Roberts what their success rate was on tracking businesses and seeing how successful their projects can be, and he was supposed to give her that information. Mr. Roberts said he looked into the history of the company and they have a history in the telecommunications industry since 1987. They are a national consulting firm from Virginia. Mr. Dibellow said he has worked for a large distribution company since 1994. He likes to think he knows everything in that building, but he does not. That is why companies bring in outside contractors to look at their company to help them look at the return on investment. Is the City going to be paying for this 5, 10, 20 years in the future? This should help the Council make their decision. Regarding some of the earlier comments, infrastructure does fail. It may not now, but there are problems with infrastructure or the service provider. As far as selling the infrastructure to Qwest, he was very opposed to that idea. He got off their line because he was tired of paying other people's bills. He could not even make a local phone to Ogden without being charged for long distance.

Mayor Fife asked Eric Isom from Qwest if he wanted to make any comments.

Eric Isom - Mr. Isom is the Government Affairs Director for Qwest. He said he also attended a public hearing in West Valley City for this same issue and there was not one person who spoke. He complimented Brigham City citizens for their involvement. Obviously, Qwest philosophically agrees with the UTOPIA concept. Fiber is a great media to provide services. One of the things Qwest initially said is that it is a very expensive endeavor to place fiber into communities, especially if it is done after streets have been built and homes are in place. Qwest has taken a model that is called fiber to the mode. Fiber is moved into the neighborhood and then the exiting copper infrastructure is used to offer increased speeds. They have not yet employed fiber to the node in Brigham City. They have been installing it along the Wasatch Front and would like to expand it throughout their service territory in Utah. Qwest recognizes that they may have overestimated the take rates. The initial feasibility study projected take rates of about 25%. He felt they overestimated the initial take rates. They also under estimated the cost. It has been mentioned that 25%-35% were the figures that were included in the feasibility study. He asked if the Council had been provided information on what assumptions were used to determine these numbers. He also asked for further information on the Municipal Energy and Use Tax. He understood that the franchise taxes that would back the bonding would only be gas and electric, not telecommunications or cable. Mayor Fife said that is correct. Mr. Isom said his understanding of the bonding is that the City Council will not actually vote on the bonding, the UIA Board would vote on it. Mayor Fife

explained that if the Council approved the UIA agreement to bond, it would allow them to bond up to \$62 million over a 5-year period. They will take the first \$25 million and see if they get the predicted take rates. Mr. Isom said obviously Qwest would like to work with municipalities in providing advanced services. Mayor Fife asked if Qwest has fiber to some of the businesses in Brigham City. Mr. Isom was not sure. He will follow up and let the Council know.

Jeremy Hunsaker - Mr. Hunsaker asked what the process will be if the study does not show that the model is successful after the first \$25 million. Mayor Fife said that is a decision that the UIA Board will have to make. Mr. Hunsaker said if 1,600 people signed up for UTOPIA and there are 5,300 homes in Brigham City, that would be a take rate of approximately 27%. Councilmember Jensen said some of the 1,600 are not paying. Mr. Hunsaker said if it is only 1,400, that is still well over 25%.

Councilmember Ericson stated that the resolution the Council is considering is not the same resolution that was suggested by the UIA Board. When the City approved the SAA, there was a commitment from UTOPIA employees that some of the money would come back to Brigham City as additional residents signed up. This is not something that UTOPIA and UIA want to honor at this point, and it was not part of the resolution they presented to Brigham City. The City changed the resolution to state that Brigham City will be willing to join UIA if .6% as long as the Memorandum of Understanding states how much the City will receive on the additional 775 connections. Even if this is voted on and approved by the Council, there is a chance the UIA Board will not agree to the City's terms. Mayor Fife read from the last section of the resolution. "This resolution is contingent upon a clarification from UIA regarding Sections 3.1, 5.12 and Exhibit C in the collection of service fees by the City referenced in the Service Contract." This has to do with how much the City is supposed to collect from the connection fee. He continued reading from the resolution. "This resolution is also contingent upon an agreement with UIA that the service fees as stated in Section 3.1 of the Service contract will only include the actual connection costs since the formation of the UIA and will not include previous costs from UTOPIA or from the City's Special Assessment Area. The City Council grants the Mayor the authority to sign the resolution and service contract once these issues have been resolved." This paragraph is stating that UIA cannot take all the fees from the connection fees, only the portion they are funding. They would fund approximately \$1,200-\$1,300 to get the connection from the curb to the residence, but the homeowner would be charged an allotment of \$3,000. The City would recoup about 60% of the fee if UIA agrees to this. This money would go back into the City's Telecommunications Utility Fund and then it could be used to lower the cost to everyone.

Councilmember Jensen said the City is basically giving UIA a counteroffer. They can accept the counteroffer or deny it. As Mr. Leonard stated earlier, there is a possibility they will not accept it. She asked the Council what the ceiling is; where is the Council willing to go? Mayor Fife thought the Council's position was if they do not accept it the Council will have to figure out how to finance connections, either through the City or update the agreements with UTOPIA on the service they provide. Councilmember Ericson said if UTOPIA is not willing to live up to the agreement they made when the City entered the SAA, then the Council has talked about not joining the UIA, and not participating even at the reduced rate they have proposed. Councilmember Jensen asked if the Council agrees not to go any higher than the .6%. Councilmember Marabella said the important thing to remember is that the City's population percentage is 3.46%. If the City had not negotiated, they would contribute 3.46% to the \$62 million bond. The City has been given credit back to the .6% through negotiations by the Mayor, Mr. Roberts and Mr. Leonard. If the Council approves this resolution and agreement, it would be approved with the counteroffer or pending the approval of the steps. If they do not approve it, then the City will not be part of UIA and will continue without it.

Councilmember Jensen said the City is already part of the UIA because it was already voted on in a previous meeting. They gave the City certain stipulations because of the negotiations that Mr. Roberts and Mr. Leonard had done because the citizens of Brigham City have paid a lot for this service. UTOPIA has used Brigham City as the shining star for UTOPIA, and that is why the percentage is down to .6%. She asked the question how much further the Council is going to go, and some answered the question, but then some of the Council said it could go up to 3.46%. Mayor Fife said the Council did not say that. Councilmember Jensen said Councilmember Marabella said it is a possibility. Councilmember Marabella said he did not state that. He was educating the public that 3.46% represents the City's population base, but the City's contribution is .6% because of negotiations. Councilmember Jensen asked how much he is willing to go. Councilmember

Marabella said he is very clearly in support of the \$62 million, then stopping and re-evaluating just like the Council has done previously.

Councilmember Christensen said it is important for those in attendance to know that there are 1,600 homeowners that would be very angry if their UTOPIA was shut off. The Council needs to protect them as well.

Councilmember Jensen said she told the Mayor earlier that if the City is going to pay the \$31,000/year, the Council should forfeit their salaries to pay for it. Councilmember Christensen said the City is not paying anything yet. Councilmember Jensen said the City can have her money. She does not need the salary nor the insurance. The City can have her \$6,000/year. Councilmember Ericson clarified that the council's salary would not cover the \$31,000. The Mayor stated that he told Councilmember Jensen at that time that the City can have his salary over the next three years as well, if it would make people happy about this situation.

Mayor Fife said another option is not to join UIA and the City would finance the connections and charge those that sign up on their utility bill. He thought it would be cheaper in the long run to do the pledge. He added that if the City does not sign up with UIA, the City would not share in any of the profits.

MOTION: Councilmember Marabella made a motion to adopt the resolution authorizing the Mayor to sign the UIA service contract and pledge the franchise tax revenues, with the understanding that the addendum the City has added to the contract be approved by the UIA Board before considering final approval. The motion was seconded by Councilmember Christensen. Councilmember Jensen said the City should not be counter offering anything to anybody; the City should be making them fix the problems on the network. The City should not be obligating anybody any more money. The City has done what they have asked. The City does not need to do anything further. Mayor Fife did not think this was considered a counteroffer; it is what the City will accept from them. Councilmember Christensen said there are really two issues. The issue of fixing the problems on the network is another issue not directly related to this agreement. He agreed that this needs to be resolved. He and Councilmember Jensen are on a committee together to interview people that have been misled and are trying to resolve these issues and make recommendations to the City Council. This issue is for new construction and new infrastructure, which could eventually lead to more revenue. The other is an issue of service providers and UTOPIA together. These two issues should be considered separately. He continued that with anything new there are issues. He had Comcast installed in his home many years ago and they had to come back about five times before they did it right. His service was poor until they finally got it fixed. The Mayor called for a vote on the motion. Councilmember Christensen, Councilmember Ericson, Councilmember Marabella and Councilmember Vincent voted aye. Councilmember Jensen voted nay. The motion carried 4-1.

A motion to adjourn to a closed session to discuss the character, professional competence or physical or mental health of an individual was made by Councilmember Jensen. The motion was seconded and carried unanimously. The meeting adjourned at 10:05 p.m. The Council returned to an open meeting at 10:15 p.m. and adjourned.